IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12052 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DAHYABHAI KASIDAS PATEL

Versus

GUJARAT STATE ROAD TRANSPORT CORPORATION

Appearance:

1. Special Civil Application No. 12052 of 2001

MRS NISHA M PARIKH for Petitioner No. 1

MR HARDIK C RAWAL for Respondent No. 1

DS AFF.NOT FILED (R) for Respondent No. 2

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 13/03/2002

ORAL JUDGEMENT

Heard learned advocate Ms. Nisha Parikh for the

petitioner and Mr. H.C. Raval for the respondent corporation. By way of this petition, the petitioner has challenged the order of punishment dated 18th July, 2000 passed by the Senior Divisional Traffic Controller, ST, Himatnagar. Under the said order, the petitioner has been lowered down to 7th Stage from the existing salary of driver received by the petitioner on that day. Against the said order, the petitioner had earlier approached the first appellate authority namely Divisional Controller, ST by way of appeal dated 25th July, 2000 which has been rejected by the first appellate authority.

Learned advocate Ms. Parikh appearing for the petitioner has submitted that she is not sure whether the second appeal has been preferred by the petitioner against the order of punishment or not. She, however, has made a statement before this Court that she is having some instructions about the pendency of the second appeal. Under the ST Discipline & Appeal Procedure Rules, the petitioner is having an alternative equally efficacious remedy of second appeal and, therefore, considering these facts, if the petitioner has preferred the second appeal before the second appellate authority, and is pending before the said appellate authority, then, the second appellate authority is directed to decide such appeal within one month from the date of receipt of copy of this order. If such appeal has so far not been preferred by the petitioner, then, the petitioner shall prefer such appeal before the second appellate authority within one month from the date of receipt of copy of this order. In that event, the second appellate authority shall decide such second appeal that may be preferred by the petitioner within two months from the date of receipt of such second appeal from the petitioner.

In this matter, initially, rule was issued by this Court by order dated 28th December, 2001 and ad.interim relief in terms of para 20(C) has also been granted by this Court. However, according to Mr. Raval, before the ad.interim order could be served upon the respondent corporation, the order of punishment has already been implemented by the corporation. Ms. Parikh is also not sure as to whether the order of punishment has been implemented or not till this date. In such a situation, it would be just and proper to direct the corporation to maintain status quo as on today till the second appeal is decided by the second appellate authority of the corporation. With these observations and directions, this petition is disposed of with a liberty in favour of the petitioner to challenge the

orders that may be passed by the second appellate authority on the second appeal before the appropriate forum in accordance with law, if such order is adverse to the petitioner. Rule is discharged. There shall be no order as to costs.

13.3.2002. (H.K. Rathod,J.)

Vyas